

# EXHIBIT I

**Bittner, Tyler C.**

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**From:** Andrew Stephens <andrew@hackerstephens.com>  
**Sent:** Wednesday, September 14, 2022 10:40 AM  
**To:** Chapa, Justin R.; Heather Hacker  
**Cc:** Godesky, Leah; Ashby, Danny S.; Whisler, Megan; Zisk, Ben; Craig.Margolis@arnoldporter.com; Lollar, Tirzah; Christopher.Odell@arnoldporter.com; Sheehan, Christian; Raymond.Winter@oag.texas.gov; Amy.Hilton@oag.texas.gov; Eugenia.Krieg@oag.texas.gov; Drew.Wright@oag.texas.gov; Sinty.Chandy@oag.texas.gov; Rhonda.Rodriguez@oag.texas.gov; Ana.Aranda@oag.texas.gov; Janice.Garrett@oag.texas.gov; Jennifer.Rowell@oag.texas.gov; Michael.Moore@oag.texas.gov; Martin, Meghan C.; Winter, Zachary; brown@blackburnbrownlaw.com; Carrie Killion; Bloom, Craig P.; Bittner, Tyler C.; Takakjian, Katie; Reeder-Ricchetti, Emily  
**Subject:** Re: U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production  
**Categories:** In DM, #80888116 : 0674061 : 00003

[EXTERNAL MESSAGE]

Justin,

We stand on our objections. You can raise your concerns with the Court when you file your motion explaining PPFA's blanket designation of 58,000 Attorneys Eyes Only documents.

Andrew

**Andrew B. Stephens**

Partner

Hacker Stephens LLP

[www.hackerstephens.com](http://www.hackerstephens.com)

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**From:** Chapa, Justin R. <jchapa@omm.com>  
**Sent:** Wednesday, September 14, 2022 9:18:05 AM  
**To:** Andrew Stephens <andrew@hackerstephens.com>; Heather Hacker <heather@hackerstephens.com>  
**Cc:** Godesky, Leah <lgodesky@omm.com>; Ashby, Danny S. <dashby@omm.com>; Whisler, Megan <mwhisler@omm.com>; Zisk, Ben <bzisk@omm.com>; Craig.Margolis@arnoldporter.com <Craig.Margolis@arnoldporter.com>; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Christopher.Odell@arnoldporter.com <Christopher.Odell@arnoldporter.com>; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>; Raymond.Winter@oag.texas.gov <Raymond.Winter@oag.texas.gov>; Amy.Hilton@oag.texas.gov <Amy.Hilton@oag.texas.gov>; Eugenia.Krieg@oag.texas.gov <Eugenia.Krieg@oag.texas.gov>; Drew.Wright@oag.texas.gov <Drew.Wright@oag.texas.gov>; Sinty.Chandy@oag.texas.gov <Sinty.Chandy@oag.texas.gov>; Rhonda.Rodriguez@oag.texas.gov <Rhonda.Rodriguez@oag.texas.gov>; Ana.Aranda@oag.texas.gov <Ana.Aranda@oag.texas.gov>;

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**Subject:** RE: U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production

Andrew and Heather:

Relator's challenge is not in good faith and entirely inappropriate. By Relator's own admission below, Relator was still downloading and processing the production on Monday. It is implausible that, in the short window since then, Relator has conducted any reasoned review of the documents in PPFA's production.

Indeed, Andrew acknowledged on our call yesterday afternoon about Relator's last designation challenge—also made on a blanket basis—that he has not reviewed the documents in PPFA's production. You also both indicated on the same call that Relator has challenged PPFA's designations simply because Relator doesn't know why any specific designation was made. Yet, Relator has not pointed to a single document that Relator believes has been improperly designated as Confidential or AEO.

Such blanket, unspecified, and unfounded challenges are—as Relator undoubtedly knows—enormously burdensome to PPFA. Responding to such a blanket challenge will require PPFA to incur the staggering costs associated with undertaking yet another voluminous review and document-by-document defense of each designation—including for documents that are unquestionably confidential on their face and tens of thousands of documents that will never be used in any motion practice or trial. It is concerning, moreover, that you both represented yesterday that Relator crafted the parties' jointly-proposed Protective Order [DE 133] specifically so that Relator could make such blanket challenges. That intention was not disclosed to PPFA during the parties' discussions about the Protective Order, and Rules 11, 26, and 37 do not countenance such an approach.

The Protective Order expressly requires a party challenging a confidentiality designation to “meet and confer in good faith.” That at least implicitly assumes that such challenges will be made in good faith, rather than prophylactically and vexatiously. PPFA cannot meaningfully or substantively confer with Relator about PPFA's confidentiality designations without some indication of why Relator believes that a specific designation is inappropriate (rather than Relator's apparent belief that it is per se inappropriate to make designations that the Protective Order expressly allows for). Relator's approach runs squarely afoul of the duty to try in good faith to avoid court intervention.

Please promptly state a specific and by-document basis for Relator's challenge so that PPFA may address Relator's concerns. Relator's gamesmanship will not be tolerated by PPFA, and PPFA will seek Court intervention if Relator does not immediately withdraw its prophylactic challenges and participate in this process in good faith.

PPFA reserves all rights.

**O'Melveny**

**Justin R. Chapa**

[jchapa@omm.com](mailto:jchapa@omm.com)

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**From:** Andrew Stephens <andrew@hackerstephens.com>

**Sent:** Tuesday, September 13, 2022 12:14 PM

**To:** Zisk, Ben <bzisk@omm.com>; Heather Hacker <heather@hackerstephens.com>

**Cc:** Godesky, Leah <lgodesky@omm.com>; Ashby, Danny S. <dashby@omm.com>; Chapa, Justin R. <jchapa@omm.com>; Whisler, Megan <mwhisler@omm.com>; Craig.Margolis@arnoldporter.com; Lollar, Tirzah <Tirzah.Lollar@arnoldporter.com>; Murad.Hussain@arnoldporter.com; Christopher.Odell@arnoldporter.com; Sheehan, Christian <Christian.Sheehan@arnoldporter.com>; Raymond.Winter@oag.texas.gov; Amy.Hilton@oag.texas.gov; Eugenia.Krieg@oag.texas.gov; Drew.Wright@oag.texas.gov; Sinty.Chandy@oag.texas.gov; Rhonda.Rodriguez@oag.texas.gov; Ana.Aranda@oag.texas.gov; Janice.Garrett@oag.texas.gov; Jennifer.Rowell@oag.texas.gov; Michael.Moore@oag.texas.gov; Martin, Meghan C. <Meghan.Martin@arnoldporter.com>; Winter, Zachary <Zachary.Winter@arnoldporter.com>; brown@blackburnbrownlaw.com; Carrie Killion <Carrie.Killion@oag.texas.gov>; Bloom, Craig P. <cbloom@omm.com>  
**Subject:** Re: U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production

[EXTERNAL MESSAGE]

As to the documents produced by PPFA on September 9, 2022, this email serves as our written objection and request under Paragraph 7 of the Protective Order that you change the designations of (1) all documents marked "Confidential" that do not contain "protected health information" as defined by Paragraph 2 of the Protective Order and (2) all documents marked "Attorney Eyes Only" that do not contain Personal Identification Information listed in examples 1-6 of Paragraph 2 of the Protective Order.

We are available to meet and confer on this issue pursuant to Paragraph 7 of the Protective Order.

Andrew

**Andrew B. Stephens**

Partner

Hacker Stephens LLP

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**From:** Zisk, Ben <[bzisk@omm.com](mailto:bzisk@omm.com)>

**Sent:** Tuesday, September 13, 2022 12:30 PM

**To:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>; Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>

**Cc:** Godesky, Leah <[lgodesky@omm.com](mailto:lgodesky@omm.com)>; Ashby, Danny S. <[dashby@omm.com](mailto:dashby@omm.com)>; Chapa, Justin R. <[jchapa@omm.com](mailto:jchapa@omm.com)>; Whisler, Megan <[mwhisler@omm.com](mailto:mwhisler@omm.com)>; [Craig.Margolis@arnoldporter.com](mailto:Craig.Margolis@arnoldporter.com) <[Craig.Margolis@arnoldporter.com](mailto:Craig.Margolis@arnoldporter.com)>; Lollar, Tirzah <[Tirzah.Lollar@arnoldporter.com](mailto:Tirzah.Lollar@arnoldporter.com)>; [Murad.Hussain@arnoldporter.com](mailto:Murad.Hussain@arnoldporter.com) <[Murad.Hussain@arnoldporter.com](mailto:Murad.Hussain@arnoldporter.com)>; [Christopher.Odell@arnoldporter.com](mailto:Christopher.Odell@arnoldporter.com) <[Christopher.Odell@arnoldporter.com](mailto:Christopher.Odell@arnoldporter.com)>; Sheehan, Christian <[Christian.Sheehan@arnoldporter.com](mailto:Christian.Sheehan@arnoldporter.com)>;

Case 2:21-cv-00022-Z Document 188-9 Filed 09/21/22 Page 5 of 6 PageID 4664  
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Bloom, Craig P. <[cbloom@omm.com](mailto:cbloom@omm.com)>

**Subject:** RE: U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production

Hi Andrew,

This production has a total of 74,845 documents, with 55,207 designated Attorneys Eyes Only and 9,133 designated Confidential.

Please let us know if you have any other questions or issues as you process these documents.

Best,

Ben Zisk  
O: +1-310-246-6714  
[bzisk@omm.com](mailto:bzisk@omm.com)

---

**From:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>

**Sent:** Monday, September 12, 2022 12:06 PM

**To:** Zisk, Ben <[bzisk@omm.com](mailto:bzisk@omm.com)>; Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>

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**Subject:** RE: U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production

[EXTERNAL MESSAGE]

Leah,

Thank you for the document production. We are still processing and uploading the documents but in the meantime could you please let us know how many documents are in this production and the number of documents that are designated (1) Attorneys Eyes Only and (2) Confidential ?

Thank you,

Andrew

**Andrew B. Stephens**

Partner

**HACKERSTEPHENS** LLP  
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**From:** Zisk, Ben <[bzisk@omm.com](mailto:bzisk@omm.com)>

**Sent:** Friday, September 9, 2022 11:13 PM

**To:** Andrew Stephens <[andrew@hackerstephens.com](mailto:andrew@hackerstephens.com)>; Heather Hacker <[heather@hackerstephens.com](mailto:heather@hackerstephens.com)>

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**Subject:** U.S. ex rel Doe v. Planned Parenthood, No. 2:21-cv-00022-Z -- PPFA's Production

Counsel,

Please see the attached letter. As explained in the letter, I will follow up momentarily with a link to the website where these documents can be found, along with log-in information.

Best,

Ben

**O'Melveny**

**Ben Zisk**

[bzisk@omm.com](mailto:bzisk@omm.com)

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